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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20546

**FILE:** B-210482

**DATE:** June 17, 1983

**MATTER OF:** M-R-C, Joint Venture

**DIGEST:**

1. Protest of various alleged solicitation defects is untimely because it was not filed until 6 months after the closing date for receipt of initial proposals.
2. Contention that protest is timely filed because protester, a joint venture, did not learn of the basis of protest until a few days prior to filing its protest with GAO, when it received a copy of the contract awarded the successful offeror, is contradicted by the agency's uncontested statement that a copy of the contract was furnished to a principal of the joint venture months earlier. Protest not filed within 10 working days of when protester knew or should have known of basis of protest is untimely.

M-R-C, Joint Venture, protests request for proposals No. F33615-82-R-1714 issued by the Aeronautical Systems Division, Air Force Systems Command, Wright Patterson Air Force Base, Ohio for civil engineer service support. M-R-C asserts that the work solicited was in the nature of construction rather than services and that, consequently, the solicitation should have included construction-related provisions, such as Davis-Bacon minimum wage rates, and that the solicitation was defective in a number of other respects. The protester also asserts that the awardee was improperly permitted to adjust its proposal after the submission of offers. We dismiss the protest as untimely.

The solicitation was issued May 18, 1982. Initial proposals were received June 30, 1982, and a contract awarded to the successful offeror, the Fred B. DeBra Company, on September 30, 1982. M-R-C's protest was filed with this Office on January 13, 1983.

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Under our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1)(1983), a protest of alleged improprieties in a solicitation must be filed prior to the closing date for receipt of initial proposals. All of M-R-C's contentions regarding the solicitation relate to alleged deficiencies which were apparent on the face of the solicitation. The earliest that M-R-C raised any questions in this respect was more than 6 months after the closing date. Because these allegations were not received by either the Air Force or this Office until after the closing date for receipt of initial proposals, they are untimely.

M-R-C also contends that the Air Force permitted DeBra to adjust its proposal after receipt of offers to include certain mark-ups not contemplated by the solicitation, and that other offerors were not afforded this opportunity. M-R-C originally asserted that it only became aware of this when it received a copy of the contract on January 5, 1983, in reply to a Freedom of Information Act request and that, consequently, its protest received by our Office on January 13, 1983 is timely with respect to this allegation. In its subsequent report on the protest, however, the Air Force states that Messer Construction, a principal of M-R-C, Joint Venture was provided a copy of the awarded contract nearly 3 months earlier, on October 14, 1982. M-R-C has not contested this statement.

Our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(2), state that a protest which involves other than solicitation improprieties must be received by either the contracting agency or our Office within 10 working days after the basis of the protest is known or should have been known. As noted, M-R-C's protest was filed nearly 3 months after a principal of the joint venture received a copy of the contract upon which this aspect of its protest is based. We view this as notice to both the principal and the joint venture regarding the terms of the awarded contract and, consequently, this part of M-R-C's protest is untimely.

Finally, M-R-C contends that even if its protest is untimely, it should be considered under the "significant issue" exception to our timeliness rules, 4 C.F.R. § 21.2(c).

We do not agree. This exception must be strictly construed and sparingly used to prevent our timeliness rules from being rendered meaningless. Consequently, to be

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considered significant, the issue in protest must be a matter of widespread interest to the procurement community which has not been the subject of prior GAO decisions. See 52 Comp. Gen. 20, 23 (1972). While the protester argues many points, none has been shown to satisfy this test. Accordingly, we see no basis for considering the protest under the significant issue exception to our timeliness rules.

The protest is dismissed.

*F. H. Bauby Jr.*  
for Harry R. Van Cleve  
Acting General Counsel